**Appendix no. 10 to Agreement No. AZP.25.1.8.2025**

concluded on.....................................in Białystok by and between:

..................................................................NIP …………………………………………

represented by: .........................................................

/ hereinafter referred to as **"Contractor**"

and

**Medical University of Bialystok (MUB), ul. Jana Kilińskiego 1, 15-089 Białystok, NIP 542-021-17- 000288604,**

represented by:

**mgr Konrad Raczkowski – Chancellor,**

hereinafter referred to as **“Ordering Party"**

The Contractor has been selected in the course of an unlimited public tender proceeding conducted in the mode of the Act of 11 September 2019 - Public Procurement Act (uniform text, Journal of Laws from 2024, item 1320),

The subject of order is financed under the Poland's National Recovery and Resilience Plan in the scope of investments D3.1.1. Comprehensive Research Development in the scope of medical and health sciences “Contest on the improvement and increase of the scientific-research potential of the existing Clinical Research Support Centres” (2024/ABM/7/KPO).

**§ 1**

1. The subject of the hereby Agreement shall be the **delivery of the set comprising two metabolic chambers with equipment and fixture, hereinafter referred to as the “set” to the Clinical Research Support Centre at the Medical University of Bialystok.** The purchase covers the design, delivery of devices comprising the set, unloading, carrying in, assembly, installation, launching and training of the personnel along with implementation.
2. The conduct of the subject of the Agreement shall occur: **until 27.02.2026. Delivery of the set by the Contractor shall occur upon a written request of the Ordering Party submitted to the Contractor no later than 30 days prior to commencing the assembly and the installation.**
3. Detailed specification of the subject of the Agreement has been outlined in: Appendix no. 1 to the Agreement (Appendix no. 2 to TOR), offer of the Contractor and specification of order conditions (with appendices) constituting an integral part of the hereby Agreement. The above-specified Appendices shall not require submission of signatures by the Parties.
4. The Ordering Party declares that the quality of the subject of the order must comply with the requirements and its marking must be in line with the binding provisions, whilst the Contractor undertakes to provide such a subject of the order.
5. The Contractor shall be obliged to provide the following documents with the subject of the Agreement:

a) working instruction (user manuals are allowed) elaborated in Polish or English,

b) guarantee cards in Polish or English,

c) technical card/technical passport in Polish or English.

1. The Contractor undertakes to secure the premises in which the delivery and the assembly of the fixture specified in the subject of the order will occur. Costs of potential repairs and damages to the Ordering Party’s property generated in the course of order realization shall be incurred by the Contractor. The Contractor shall be obliged to realize the subject of the Agreement in line with the DNSH principle („do no significant harm”) included in the Regulation of the European Parliament and Council (EU) 2020/852 from 18 June 2020 on establishing the frames facilitating sustainable investments, the so-called taxonomy, in the scope specified in Part IV of the Description of the subject of the order , clause 3 of TOR.
2. The subject of the order shall be factory new, unused, non-restored, complete, ready for use after installation and launching in line with its designation without additional investment purchases. Purchases of exploitation and usable materials, including medical goods of single use are not investment purchases,
3. The subject of the order allowed for sale in the territory of the Republic of Poland, possessing all the required by law certificates, attestations, declarations etc. and it meets all the requirements in the scope of service safety standards. The Contractor undertakes to display to the Ordering Party, upon each demand, documents confirming compliance with the above-specified requirements,
4. The Ordering Party notifies that he conducts a simultaneous proceeding on the basis of the Public Procurement Act the subject of which is the reconstruction of premises with the use of the architectural concept constituting an appendix to TOR.
5. Due to the fact that the Ordering Party simultaneously conducts a proceeding for the performance of construction works involving reconstruction of premises in which the subject of the hereby Agreement shall be installed, the Ordering Party, within 30 days from the date of conclusion of the Agreement for construction works shall issue an order to the Contractor for the commencement of works related to the set.
6. Delivery, unloading, carrying in, instalment, launching of all components of the set and provision of working instructions as well as their implementation shall be realized at the cost and effort of the Contractor. Engagement of the MUB employees in actions related to unloading or carrying the devices is excluded.
7. Devices shall be delivered in proper original packaging ensuring safety to the subject of delivery against the impact of any harmful factors.
8. Devices shall be delivered to premises specified by the Direct User or by the authorized person.
9. The Contractor shall be responsible for installing and launching devices forming part of the set being conducted by persons with the proper knowledge and experience as well as entitlements, should these be required by the law.
10. The Contractor shall bear all the costs related to connecting the devices and/or elements of the set to the existing installation and/or costs of modification of such an installation. The Contractor shall furthermore bear the costs of any potential construction works related to adjusting the ceiling (strengthening) or the walls in the room in which the set will be installed.
11. The Contractor shall be responsible for securing the areas in which the assembly, installation and launching of the device shall be carried out. The Contractor undertakes to leave the areas in which assembly and installation works will be conducted in the ready and completed state. The costs of potential defects and damages to the Purchaser’s property generated in the course of order realization shall be incurred by the Contractor.
12. The Contractor shall be obliged to clean and remove the packaging and other materials (pallets, cardboards, foil etc.) and utilize them in line with the DNSH principle remaining after unpacking of the delivered devices from the rooms to which they were delivered and from all other rooms in which the above packaging and materials were stored.
13. All damages to the property of the Ordering Party appearing at the fault of the Contractor during the conduct of actions related to the delivery and assembly of the subject of the order shall be removed by the Contractor at his own expense and effort.
14. The Ordering Party shall not be held liable with respect to the risk of loss or damage of the subject of the order delivered and left in the premises designated by the Ordering Party or in the area of the User/Ordering Party prior to signing the handover protocol.
15. The procedure of handover shall commence up to 3 working days from the date of submission by the Contractor of his readiness to collect the device. Readiness to conduct the handover may be reported and accepted by the Ordering Party solely: after delivery and launching of all devices forming part of the order, implementing the working instructions and establishing the preferrable term with the Direct User.
16. The Contractor submits readiness for the handover to the person authorized by the Ordering Party to contact the Contractors, that is, the person specified in the agreement as the person responsible for the realization of the subject of the order.
17. The Contractor shall delegate qualified personnel for the execution of the Agreement in the number guaranteeing proper execution of the subject of the order.
18. The Contractor undertakes to carry out the works which constitute the subject of the order whilst maintaining the highest diligence, in accordance with the binding provisions and technical standards as well as the principles of the latest available technical knowledge.
19. The Contractor undertakes to closely cooperate with the Contractor of construction works during the design works and construction works in order to maintain optimal design and performance of the premises in which the set shall be mounted.
20. Throughout the period of the Agreement validity, the Contractor shall ensure communication in Polish or English with the contractor of construction works and with the representatives of the Ordering Party.
21. The term “set” shall be understood as software delivered and launched as part of the conduct of the order in question.

**§ 2**

1. The subject of the Agreement, specified in detail in Appendix no. 1 to the Agreement (Appendix no. 2 to TOR) shall be placed in the location of designation in the seat of the User - Clinical Research Support Centre, Waszyngtona 17, 15-274 Białystok.
2. Upon concluding the defect-free handover protocol by the end User, the Ordering Party shall take over the risk of accidental loss or damage of the subject of the Agreement.
3. Detailed requirements related to the execution of the order in the scope of the delivery and collection of the device shall be contained in Appendix no. 1 to the Agreement (Appendix no. 6 to TOR).

**§ 3**

1. The value of the Agreement is fixed and amounts to:
................................. EUR net;

…………………………. EUR gross.

1. The value of the subject of the Agreement set forth in sec. 1 contains all the costs related to the delivery realization, including: price of the set, VAT tax, customs fees, license fees, packaging costs, transport, carrying in, unloading, transport insurance, assembly, installation, launching, implementation of the working instructions, insurance, costs related to the provision of comprehensive guarantee service (travel costs, costs of handling all customs formalities related to import of replacement parts, costs of courier deliveries, costs of labour, materials etc.) and potential costs of the customs agency services.
2. In case when, as part of the hereby proceeding, actions of the Contractor are qualified appropriately as intra-Community delivery of goods or import of services to the Ordering Party then, in line with the binding provisions, the fiscal obligation in the scope of the value-added tax (VAT) shall be placed on the Ordering Party whilst the Contractor shall indicate the net price (without the value-added tax).

**§ 4**

1. The Ordering Party shall carry out payment for the subject of the Agreement in the following manner:

The Ordering Party anticipates partial handovers of the subject of the order divided into 4 stages:

Stage 1. Design – handover of the technical project – 20% of the value of the agreement.

Stage 2. Production and transport - delivery of produced elements to the seat of the Ordering Party – 45% of the agreement value.

Stage 3. Assembly of chambers and delivery of equipment necessary to service it – assembly of chambers and delivery of equipment (computers, servers, track, training bike) – 25% of the agreement value.

Stage 4. Trainings and tests – personnel training and chamber tests - conduct of tests by the trained personnel of the MUB – 10% of the agreement value.

The conduct of partial handover shall occur within 7 working days from the moment of indication of readiness for handover by the Contractor to the Ordering Party of the scope of conducted works (determining the stage). Partial handover will be confirmed by way of bilateral signing of the partial handover protocol by the parties. The Parties agree that the settlement for the stages of realizing covered by the agreement shall occur:

via partial invoices in line with the schedule on the basis of partial handover protocols of works approved by the Ordering Party,

Final invoice issued after the realization of the 4th stage.

The payment term of partial invoices and of the final invoice amounts to 30 days counting from the date of delivery to the Ordering Party of the correctly issued VAT invoice. The Ordering Party requires indication by the Contractor of the name of the subject of the order on the issued VAT invoice **identical** to the name specified in the title of the description of the subject of the order (Appendix no. 1 to the Agreement - Appendix no. 2 to TOR). In case of another name of the subject of the order or in case of the incorrectly issued VAT invoice, the Ordering Party shall return it to the Contractor for correction. The basis for issuing a VAT invoice is a signed error-free partial handover certificate and, after the complete fulfilment of the order, a final handover protocol (form attached). The validity of the handover protocol is confirmed by the signatures of:

- the Contractor (or Contractor's representative),

- the User (or authorized person),

- person responsible (or authorized) to realize the subject of the order from the MUB Procurement Department.

2. The date of changing of the bank account of the Ordering Party shall be considered the date of payment.

1. It is forbidden to carry out the transfer of receivables to which the Contractor is entitled on account of remuneration for the realized subject of the Agreement.
2. The bank account of the Contractor to which the Ordering Party shall carry out payments for the subject of the Agreement is........................................................................................................
3. The Contractor hereby declares that:
	1. As per the date of conclusion of the Agreement in question he is not / he is registered [[1]](#footnote-1) for the purposes of VAT tax as “active VAT payer”,
	2. The bank account specified in the Agreement shall be reported in the tax authority and it shall be visible in the “List of entities registered as VAT payers, registered and deleted and re-listed in the VAT register” and maintained by the Head of the Country Revenue Information - hereinafter referred to as “the white book” which is Confirmed by the Contractor in the form of a printout from the list of VAT taxpayers from the “white book”. The printout shall constitute an appendix to the hereby Agreement.
4. In case of the change in the status from the so-far status into a different one, the Contractor undertakes to notify the Ordering Party of the above in writing within 7 days from the date of conduct of the change in this regard.
5. In case of the change of the bank account specified in the Agreement, the Contractor undertakes to notify the Ordering Party of the above in writing within 7 days from the date of conduct of the change in this regard. Any change of the Agreement in this respect shall require an annex.
6. The Parties to the Agreement declare that in case of a change in the bank account by the Contractor, until revealing of the new bank account in the “white book”, the term of payment specified in the Agreement shall be postponed until the date of visibility of the new bank account in the “white book” and notifying the Ordering Party of this fact without the possibility of calculating interest for delay or other claims towards the Ordering Party.
7. The costs of financial service of the Agreement in the bank of the Contractor shall be incurred by the Contractor, whilst in the bank representing the Ordering Party - the Medical University of Bialystok.
8. The Parties accept issuance and delivery in electronic form, in PDF format: invoices, corrective invoices and invoice duplicates in line with Art. 106 n of the Act from 11 March 2004 on value-added tax (uniform text of the Journal of Laws from 2020, item 106).
9. Electronic invoices shall be sent to the Ordering Party to the e-mail address: efaktura@umb.edu.pl.
10. The Ordering Party undertakes to notify the Contractor of each change of the above-specified email address.
11. ~~The Ordering Party allows the possibility of payment of the advance payment at the level of 25% of the Agreement value which shall be paid by the Ordering Party within the term of 30 days counting from the date of obtaining the correctly issued advance payment VAT invoice. The remaining 75% of the value of the Agreement shall be paid within 30 days counting from the date of obtaining correctly issued VAT invoices. The basis for issuing VAT invoices shall be the signed, defect-free handover protocol after comprehensive realization of the subject of the order.~~
12. ~~Granting the advance payment shall be possible solely post prior submission by the Contractor of advance payment return collateral in the form of bank guarantee at the level of 100% of the value of the granted advance payment issued to the Ordering Party by the Contractor’s bank with a ranking not below BB+. In case when the collateral is submitted in the amount below the planned amount of the advance payment, the advance payment shall be paid up to the amount of the collateral.~~
13. ~~The period of validity of the collateral on the advance payment covers the term calculated from the date of its submission in the seat of the Ordering Party to the date of execution of the Agreement, increased by the minimum of 25 working days from the date of execution of the subject of the Agreement, that is, the date of the defect-free final handover protocol.~~
14. ~~In case of prolonging the term for the Agreement realization, the Contractor shall be obliged to prolong the bank guarantee securing the advance payment according to the conditions to date - for the period of prolonging the term of Agreement realization.~~
15. ~~The collateral on the advance payment is submitted through submission in the original of the document in the seat and in the location specified by the Ordering Party.~~
16. ~~In case when the documents confirming the submission of the collateral on the advance payment are issued by a foreign bank, apart from the requirements contained in the hereby paragraph, these documents ought to contain the clause, whereby all the rights and obligations stemming from the issued documents are subject to the Polish legislation and, additionally, a certified translation into Polish must be enclosed with them.~~
17. ~~The bank guarantee submitted by the Contractor must be irrevocable, unconditional, ensuring payment to the Ordering Party upon each request without the necessity to submit any additional documents. Moreover, it must contain the guarantor’s resignation from pursuing claims (Art. 883 of the Civil Code) including exclusion of the possibility of set-offs and claims concerning the possibility of evasion of the legal effects of incorrect declarations with the exception of the evasion of the legal effects of the declaration, in accordance with Art. 86 of the Civil Code. Payments cannot be determined by submissions of payment requests by means of the Ordering Party's bank which confirms that signatures on the payment request have been submitted by persons authorized to enter into financial liabilities on behalf of the Ordering Party. The surety must cover resigning from the right to deposit the surety amount. The Ordering Party reserves the right to pre-approve the contents of the proposed guarantees.~~
18. ~~The Ordering Party shall be entitled to demand return of the advance payment and thus, maintain or realize the collateral of the advance payment in case when:~~
	* + ~~The Contractor failed to execute or improperly executed the entire or partial order with respect to which the advance payment has been made,~~
		+ ~~The Ordering Party withdrew from the Agreement due to causes for which the Contractor is responsible,~~
		+ ~~The Contractor withdrew from the Agreement,~~
		+ ~~The Agreement was terminated and the Contractor failed to return the advance payment within 7 days from the date of its termination,~~
		+ ~~The Ordering Party withdrew from the Agreement pursuant to Art. 456 sec. 1 point 1 of the Public Procurement Act and the Contractor failed to return the advance payment within 7 days from the date of withdrawal from the Agreement.~~
19. ~~Provided that circumstances entitle to withhold or realize the collateral of the advance payment by the Ordering Party, its return shall occur upon the written request of the Contractor within 14 days from the date of entrustment with the Ordering Party (in the form of a defect-free protocol of the final handover) of the completion of the subject of the Agreement and its settlement towards remuneration.~~

**§ 5**

1. The assembly, installation and launching of the purchased subject of the order shall be conducted by the entity specified in Appendix no. 1 to the Agreement (Appendix no. 2 to TOR), hereinafter referred to as the service.
2. The transfer of ownership shall occur after the date of conclusion of the defect-free handover protocol of the subject of the order.
3. The Ordering Party shall be obliged not to unpack the subject of the order until the arrival of the Contractor’s service representative.
4. The Contractor shall carry out implementation of the working instructions in the full subject scope covered by the service manual within the term agreed by the Parties in line with Appendix no. 2 to TOR. The Contractor, along with the implementation of the working instructions, will notify the personnel of the Ordering Party about the principles of proceeding with the subject of order designated to minimize the use of electricity, water and to minimize generation of waste.

**§ 6**

1. The Contractor shall provide full, unconditional guarantee for the offered product in line with Appendix no. 1 to the Agreement - Appendix no. 4 to TOR. **The period of guarantee shall amount to…………..months.** The period of guarantee shall commence from the date of conclusion of the defect-free handover protocol post realization of the whole subject of the Agreement.
2. Detailed conditions of the guarantee, warranty and guarantee service are specified in Appendix no. 1 to the Agreement (Appendix no. 5 to TOR).

**§ 7**

* + - 1. The guarantee service shall be conducted by the entity specified in Appendix no. 1 to the Agreement (Appendix no. 2 to TOR).
			2. If the entity specified in sec. 1 is a different entity than the Contractor, than the Contractor shall be responsible for any actions and omissions of that entity as for his own actions and omissions.
			3. Persons responsible for the realization of the subject of the order are:

 - on the side of the Contractor: ............................................................

 - on the side of the Ordering Party: Krzysztof Dąbrowski, tel. +48 85 748 55 33, e-mail: krzysztof.dabrowski@umb.edu.pl.

4. Prior to commencing the realization of the order subject (after agreement conclusion) the Ordering Party shall indicate an authorized person - Direct User with whom the Contractor shall cooperate concerning procedures of delivery and handover of the subject of the order.

**§ 8**

1. The Contractor shall pay the Ordering Party a contractual penalty:
	1. for withdrawal from the Agreement by either of the Parties due to causes for which the Contractor bears responsibility - at the level of 10% of remuneration for the subject of the Agreement;
	2. for the delay in execution of the subject of the Agreement - at the level of 0.1% of remuneration for the subject of the Agreement for each day of the delay;
	3. for the delay in removal of defects reported as part of the warranty or granted guarantee - at the level of 0.1% of remuneration for the subject of the Agreement for each day of delay, counted from the date designated for removal of defects;
	4. for exceeding the time of commencement of the repair (if applicable) as specified in Appendix no. 1 to the Agreement (*Appendix no. 5 to TOR*) - at the level of 0.1% of remuneration for the subject of the Agreement for each day of delay;
	5. for exceeding the time of repair (if applicable) as specified in Appendix no. 1 to the Agreement (*Appendix no. 5 to TOR*) - at the level of 0.1% of remuneration for the subject of the Agreement for each day of delay;
	6. for exceeding the time of replacement of the device component into a new one (if applicable) as specified in Appendix no. 1 to the Agreement (*Appendix no. 5 to TOR*) - at the level of 0.1% of remuneration for the subject of the Agreement for each day of delay;
	7. For non-performance of the guarantee overhaul in the period of guarantee (if applicable) the Contractor shall pay the contractual penalty at the level of 2% of remuneration for the subject of the Agreement for each non-performed overhaul.
2. The Ordering Party shall pay the Contractor a contractual penalty for withdrawal from the Agreement by the Contractor due to causes at fault of the Ordering Party - at the level of 10% of remuneration for the subject of the Agreement subject to the situation specified in § 11.
3. In case of non-delivery of the subject of the order within the timeframe exceeding by **14 days** the designated in § 1 sec. 2 term for the completion of the subject of the Agreement, the Ordering Party may withdraw from the Agreement without designating an additional term for the Agreement completion.
In case when the Ordering Party avails of this entitlement, the Contractor shall pay the Ordering Party a contractual penalty for withdrawal from the Agreement at the level of 10% of remuneration for the subject of the Agreement.
4. Receivables on account of contractual penalties may be deducted by the Ordering Party from the Contractor's remuneration.
5. The Parties may, subject to § 11 sec. 1 ~~point 1~~, pursue remuneration exceeding the level of contractual penalties according to the general principles.
6. The total maximum level of contractual penalties that may be pursued by the Parties on all accounts cannot exceed 20% of remuneration for the subject of the Agreement.
7. For the purposes of calculating contractual penalties provided for in the hereby Agreement remuneration in the gross amount shall be payable.

**§ 9**

1. All changes in the hereby Agreement shall require for their validity a written form under the pain of nullity and they shall be allowed within the limits of Article 455 of the Public Procurement Act.

2. The Agreement may be modified on the basis of Art. 455 sec. 1 point 1 in a situation when:

1. Provisions have changed the regulations of which impact the rights and obligations of the Parties,
2. it is necessary to shift the term of Agreement completion due to objective reasons preventing timely execution of the Agreement by the Contractor through expanding the term for the Agreement execution by the number of days during which obstacles in performance by the Contractor of the contractual obligations occurred,
3. after the term for submission of the offer an update of technical-exploitation solutions, quality and functional solutions (due to the technological progress) of the device has occurred, the Ordering Party allows replacing that device with a device with the current technological-exploitation, quality and functional solutions,
4. After the term for the submission of the offer, the device was withdrawn from production, the Ordering Party allows the possibility of replacing this device with a device with at least the same functionalities as the device offered in the offer.

3. The Parties allow the possibility of introducing the non-significant changes to the provisions of the Agreement. These changes shall not require conclusion of an Annex but solely an immediate written notification for the other Party under the pain of nullity. In particular, the following shall be considered by the Parties as insignificant, allowed changes:

1. change of entities specified in § 7 sec. 1 and 3 of the Agreement, however, in case of the change of the guarantee service, the service must each time fulfil the requirements for the service specified in TOR,
2. change in contact data,
3. change in the catalogue number/serial number of the device, device nomenclature, provided that the device is the same that the one which was offered to the Ordering Party.

4. The Ordering Party, provided that it obtains approval of the term extension of realization from the co-financing institution for the subject of the order, anticipates the possibility of changing the term of realization of the subject of the order in the situation of:

1. extending proceeding for granting of the hereby public order,
	1. extending proceeding for granting the public order for the execution of construction works in the building of the Clinical Research Support Centre of the Medical University of Bialystok,
	2. in case the Contractor of construction works or the Supplier of a different equipment is delayed with a timely realization in the object in which the delivery and the assembly of the set is to be performed
	3. withholding of construction works in the object in which the delivery and the assembly of the set is planned to be conducted
	4. occurrence of external circumstances independent from the Ordering Party and the Contractor, resulting in the inability to realize the subject of the Agreement

5. In accordance with the provisions of Art. 439 sec. 1 of the Public Procurement Act, the Ordering Party shall be entitled to the possibility of changing remuneration specified in § 3 upon request of the Contractor in line with the below principles:

1) Valorisation shall be granted after a month in which the WW indicator (n) exceeds 1.1 calculated in line with the pattern specified below in point 2), thus, the Parties must consider that the increase in the value of indicator WW(n) to the level 1.1 shall be within the scope of contractual risk.

2) Valorisation ratio WW(n) is established through multiplying ratios of the prices of consumption goods and services for the subsequent months, starting from the month in which opening of offers has occurred (month 0 when the ratio is equal to 100) to the month for which issuance of the invoice will occur (n-th month) as per the below formula:



where:

„Ww (n)" –valorisation ratio for the n-th month

c„a" - constant factor with the value of 0.0 - showing part of remuneration not subject to valorisation (non-valorised element)

„W0" – ratio „0” from the month of opening the offer = 100

„W1" – ratio „1” from the month following the month of opening offers (indicator of prices of goods and consumption services published by CSO in the system - previous month = 100)

„W2”, „W3",… – ratios „2”, „3”, … from the subsequent months following the month of opening offers (indicator of prices of goods and consumption services published by CSO in the system - previous month = 100)

Wn-1– ratio „n-1” from the month preceding the month in which invoice is issued (indicator of prices of goods and consumption services published by CSO in the system - previous month = 100)

„Wn" – ratio „n” from the month for which invoice is issued (indicator of prices of goods and consumption services published by CSO in the system - previous month = 100)

Quotients of ratios of prices must be calculated with precision up to three decimal places, whilst the result of products, that is, the valorisation ratio Ww (n) must be calculated with precision up to 4 decimal places.

3) Whilst applying for the settlement of remuneration for a given settlement period the Contractor shall calculate initial values of valorised amounts with respect to provisions realized in each month, using the last of the calculated indicators of valorisation after decreasing them by 0.1.

that is, the established risk of contract.

4) Net amounts payable to the Contractor shall be valorised starting from the subsequent month when the valorisation ratio Ww(n) exceeds 1.1. On account of lack of current indicator (publishing indicators in CSO bulletins occurs with a delay) valorisation from the current settlement period shall be calculated as final when CSO publishes the indicator for a given month covered by the settlement of the Contractor’s remuneration. Values established this way shall be corrected with the application of the valorisation ratio relevant for the given moth which a given settlement of the Contractor's remuneration concerned, immediately post their publication.

5) In a situation when settling remuneration of the Contractor concerns the settlement period comprising two or more months, the arithmetic mean of valorisation ratios for the subsequent months covered by the settlement period shall be assumed as the right valorisation ratio.

6) The maximum total value of the change of remuneration allowed by the Ordering Party on account of Agreement valorisation shall amount to 5% of the total amount of remuneration specified in § 3 sec. 1 of the Agreement.

6. Change of the Agreement shall require submission before the other Party a written application whereby the connection between the change of the prices of goods and services and the level of remuneration for the realization of the subject of the order shall be indicated.

7. If remuneration of the Contractor is valorised in line with Art. 439 sec. 1-3 of the Public Procurement Act, the Contractor undertakes to change remuneration to which the subcontractors are entitled with whom he has concluded the agreement in cases specified in Art. 439 sec. 5 of the Public Procurement Act. Valorisation shall occur according to analogous principles as the valorisation of remuneration of the Contractor subject to the valorisation indicators of remuneration being calculated in reference to the date of conclusion of the Agreement between the Contractor and the subcontractor.

**§ 10**

1. “In order to ensure proper execution of the Agreement, the Contractor shall provide the collateral of 2.5 % of the gross value of works which constitutes the amount of ..........................EUR (in words: ………………………………………………... EUR) in the form of.....................................................”
2. The collateral shall be issued for the period covering the conduct of order and the period of warranty and guarantee,
3. 70% of the collateral amount guaranteeing compliant with the agreement conduct of the subject of the order returned within 30 days from the date of execution of the order and the Ordering Party accepting it as properly conducted. The remaining part of the collateral shall be returned within 15 days after the expiry of the period of the warranty for faults and the guarantee.
4. In case of improper execution of the order the collateral becomes the property of the Ordering Party and it shall be used for compliant with the agreement execution of the subject of the order and to cover claims on account of warranty for defects and the guarantee of the subject of the order.
5. In case when the subject of the order has not been performed in the term specified in § 1 sec. 2 of the Agreement, the collateral was submitted in a different form than money, at latest 30 working days prior to the expiry of the validity of the collateral the Contractor shall submit the binding guarantee and/or the collateral or a new guarantee and/or the surety or pay the full amount of the collateral to the bank account of the Ordering Party for the term necessary to complete the works.
6. If the Contractor fails to carry out the actions specified in sec. 5 the Ordering Party shall be entitled to demand payment of the collateral in the full amount. In case of payment of the collateral in the full amount, the receivable in this regard shall be the collateral of the proper execution of the hereby Agreement in money.

**§ 11**

1. The Ordering Party may withdraw from the Agreement:

1) 30 days from the date of acknowledging the occurrence of significant change in the circumstances causing that the execution of the Agreement ceases to remain in the public interest, which could not have been envisaged during Agreement conclusion or further execution of the Agreement may pose a threat to the core state safety interest or public interest;

2) if at least one of the following circumstances occurs:

a) change of Agreement has been made in breach of Art. 454 and Art. 455 of the Public Procurement Law,

b) The Contractor, upon conclusion of the Agreement, was subject to exclusion on the basis of Art. 108 of the Public Procurement Law,

c) Court of Justice of the European Union stated that as part of the procedure provided for in Art. 258 the Treaty on the Functioning of the European Union that the Republic of Poland failed to comply with its obligations stemming from the Treaties, Directive 2014/24/EU, Directive 2014/25/EU and Directive 2009/81/EC,

3) In case of failure to conclude the Agreement by the Ordering Party for the conduct of conversion of the premises in which the subject of the hereby Agreement is planned to be installed, the Ordering Party reserves the right to contractually withdraw from the Agreement through submission of the statement of withdrawal.

2. In the case specified in sec. 1 point 2 letter a, the Ordering Party shall withdrawal from the Agreement in the part which the change concerns.

3. In cases specified in sec. 1 the Contractor may demand remuneration solely on account of the conduct of the part of the Agreement.

4. The Ordering Party shall be entitled to withdraw from the Agreement entirely or partly in the following situations:

a) liquidation of the Contractor;

b) The Contractor having ceased realization of the subject of the Agreement and the break exceeding 14 days despite the call of the Ordering Party to undertake the execution of the Agreement

c) in case of noting that the realization of the subject of the order by the Contractor, despite a written call issued by the Ordering Party to remove the breaches, fails to meet the contractual provisions, the binding standards and the technical conditions of execution, the regulation of the binding law;

d) in case of at least triple non-removal (effectively) of the system flaws submitted by the Ordering Party.

**§ 12**

1. The Contractor declares that he is entitled to all necessary rights to the computer software comprising the set, in particular, copyrights or licenses to the software with the right to grant sublicenses.
2. The Contractor declares that he shall grant the Ordering Party the license/sublicense to the software, that is, non-material, non-exclusive, non-limited in time and non-disposable right of use of the software forming part of the system in the scope which is necessary to use all the system functions.
3. For the software that requires third-party licenses which is not the property of the Contractor, he shall provide original carriers (if required), documents, licenses and all other components attached to the software by its manufacturer. The licenses must be issued by the manufacturer for the Ordering Party for an unspecified period of time, without territorial limitations whilst the Contractor shall fulfil all the formalities required by the law, the license and other requirements of the manufacturer in order to ensure that the Ordering Party shall become the fully-authorized user of the software in line with the conditions of the hereby Agreement.
4. Remuneration covers the costs of computer software licenses forming part of the system, update of the system software and application for management in the period of guarantee.
5. The Contractor shall grant the license for software forming part of the system in the scope necessary for use of all the system functions in the following fields of exploitation:

a) permanent or temporary multiplication of the computer programme in its entirety or part by any means and in any form; in the scope in which for the introduction, display, application, transfer and storage of the computer software it is necessary to multiply it; these actions do not require the consent of the authorized person;

b) translations, adjustments, changes in the setup or any other changes in the software whilst maintaining the rights of persons who conducted these changes.

1. The following shall not enforce permission from the Contractor:
	1. Elaborating backup copies if this is necessary for the use of the computer programme;
	2. Observing, testing and researching the functioning of the computer software for the purpose of the concepts and principles by the person with an entitlement to use the computerized copy if, being authorized to these actions he performs them in the course of introducing, displaying, applying, transferring or storing computer software;
	3. Multiplying the code or translating its form if this is necessary in order to obtain information necessary for achieving co-action regardless of the created computer programme with other computer programmes,
2. For other software elements which are not at the same time computer software components the provisions of copyrights concerning works apply. The Contractor grants the license for the remaining software elements in the scope necessary for its use in the fields of exploitation which are necessary for the correct use of the system.

§ **13**

1. The Contractor intends to order the following scope of works by the subcontractors:

a)………………………..,

b)………………………..,

c) ……………………….,

**§ 14**

1. Neither of the Parties to the Agreement shall be responsible for non-execution or improper execution of obligations stemming from the Agreement caused by circumstances treated as Force Majeure. Force Majeure shall be understood as events remaining outside the control of each of the Parties which could not be predicted or prevented and which disrupt or prevent realization of the Agreement. Events of Force Majeure are catastrophic phenomena caused by operations of the forces of nature such as floods, hurricanes, earthquakes, fires in the forests. Furthermore, acts of war, sudden public disorders, strikes and acts of public power that must be adhered to also constitute events of force majeure as well as the pandemics of SARS-CoV-2 coronavirus causing COVID-19 disease and the related special administrative means.

2. In case of the existence of Force Majeure the Party which due to such circumstances cannot or finds it difficult to correctly fulfil its contractual obligations shall notify, no later than however within 7 days, the other Party of such circumstances and their causes.

3. If Force Majeure lasts for the period of continuous 30 days or longer, the Parties may by way of mutual agreement terminate the Agreement without placing any further obligations on either of the Parties apart from payment of outstanding monies on account of the performed deliveries.

4. In case of execution of a part of the subject of the Agreement, all realized deliveries shall be subject to settlement.

5.  In case of continuing the Agreement, the period of occurrence of the consequences of Force Majeure causes the shift of terms of realizing the delivery specified in the Agreement.

**§ 15**

**I. Information on the processing of personal data of natural persons, including natural persons conducting economic activity who are Parties to the Agreement in relation to the conclusion of the Agreement with the University of undertaking actions in order to conclude the agreement**

Pursuant to Art. 13 of the Regulation of the European Parliament and Council (EU) No. 2016/679 from 27 April 2016 on protection of individuals with regards to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC hereinafter referred to as GDPR, the Medical University of Bialystok hereby notifies that:

1. The Controller of your personal data is the Medical University of Bialystok with its seat at ul. Kilińskiego 1, 15-089 Białystok, represented by the Rector, e.- e-mail: kancel@umb.edu.pl; tel. 85 7485415,
2. With regards to all matters related to your personal data you may contact the Data Protection Officer at: iod.umb.edu.pl; tel. 85 6865215, or through other contact details displayed on the websites of the University or in writing to the address of the seat of the Controller specified in clause 1,
3. The processing of your personal data is targeted at conclusion and execution of the provisions of the Agreement concluded by the Controller of the Medical University of Bialystok on the processing of personal data for the purpose of realizing the Agreement or for the purpose of undertaking actions prior to conclusion of the Agreement pursuant to Art. 6 sec. 1 letter b of GDPR.
4. Recipients of personal data shall be external entities providing services related to ongoing University operations, providers and supporters of IT systems - pursuant to applicable agreements on entrustment of personal data processing and other entities on the basis of the provisions of law,
5. Personal data shall be processed for the period of Agreement validity and, after its execution, for the period stemming from the binding archiving provisions in place at the University,
6. You are entitled to access your data, amend them, limit their processing, the right to transfer data, remove data - according to the principles specified in GDPR. You may exercise your entitlements by contacting the Data Protection Officer.
7. You are entitled to submit a complaint to the Chairman of the Personal Data Protection Office, ul. Stawki Street, 00-193 Warszawa, when it is justified that the personal data are processed by the Data Controller in breach of GDPR,
8. No automated decisions, including also profiling, shall be made based on the submitted personal,
9. Indication of personal data is obligatory in order to execute the Agreement.

**II. Information on the processing of personal data of natural persons conducting economic activity who are a Party as well as contact persons in relation to realization of the Agreement concluded with the University.**

Pursuant to Art. 13 of the Regulation of the European Parliament and Council (EU) No. 2016/679 from 27 April 2016 on protection of individuals with regards to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC hereinafter referred to as GDPR, the Medical University of Bialystok hereby notifies that:

1. The Controller of your personal data is the Medical University of Bialystok with its seat at ul. Kilińskiego 1, 15-089 Białystok, represented by the Rector, e.- e-mail: kancel@umb.edu.pl; tel. 85 7485415,
2. With regards to all matters related to your personal data you may contact the Data Protection Officer at:iod@umb.edu.pl; tel. 85 6865215, or through other contact details displayed on the websites of the University or in writing to the address of the seat of the Controller specified in clause 1,
3. The processing of your personal data is targeted at conducting the provisions of the Agreement on the basis of Art. 6 sec. 1 letter b of GDPR (Agreement conclusion) and Art. 6 sec. 1 letter f of GDPR (justified interest of the University, contact regarding Agreement realization).
4. Recipients of personal data shall be external entities providing services related to ongoing University operations, providers and supporters of IT systems - pursuant to applicable agreements on entrustment of personal data processing and other entities on the basis of the provisions of law,
5. Personal data shall be processed for the period of Agreement validity and, after its execution, for the period stemming from the binding archiving provisions in place at the University,
6. You are entitled to access your data, amend them, limit their processing, transfer data, remove data and submit an objection - according to the principles specified in GDPR. One may exercise their entitlements by contacting the Data Protection Officer.
7. You are entitled to submit a complaint to the Chairman of the Personal Data Protection Office, ul. Stawki Street, 00-193 Warszawa, when it is justified that the personal data are processed by the Data Controller in breach of GDPR,
8. No automated decisions, including also profiling, shall be made based on the submitted personal,
9. Indication of personal data is obligatory in order to execute the Agreement.

**III. Information on the processing by the Medical University of Białystok of personal data of the representatives as well as proxies, employees, collaborators, other personnel of the Contractor in relation to the execution of the agreement**

Pursuant to Art. 14 of the Regulation of the European Parliament and Council (EU) No. 2016/679 from 27 April 2016 on protection of individuals with regards to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC hereinafter referred to as GDPR, the Medical University of Bialystok hereby notifies that:

1. The Controller of your personal data is the Medical University of Bialystok with its seat at ul. Kilińskiego 1, 15-089 Białystok, represented by the Rector, e-mail: kancel@umb.edu.pl; tel. 85 7485415,
2. With regards to all matters related to your personal data you may contact the Data Protection Officer at: iod.umb.edu.pl; tel. 85 6865215, or through other contact details displayed on the websites of the University or in writing to the address of the seat of the Controller specified in clause 1,
3. The processing of your personal data is targeted at conclusion and execution of the provisions of agreement concluded with the Medical University of Bialystok on processing of personal data pursuant to Art. 6 sec. 1 letter f of GDPR - justified interest which is the execution of agreement and contact for the purpose of agreement implementation,
4. Recipients of personal data shall be external entities providing services related to ongoing University operations, providers and supporters of IT systems - pursuant to applicable agreements on entrustment of personal data processing and other entities on the basis of the provisions of law.
5. Personal data shall be processed for the period of Agreement validity and, after its execution, for the period stemming from the binding archiving provisions in place at the University,
6. You are entitled to access the content of your data, amend them, limit their processing, remove data and submit an objection - according to the principles specified in GDPR. One may exercise their entitlements by contacting the Data Protection Officer.
7. You are entitled to submit a complaint to the Chairman of the Personal Data Protection Office at ul. Stawki Street, 00-193 Warszawa, when it is justified that the personal data are processed by the Data Controller in breach of GDPR.
8. No automated decisions, including also profiling, shall be made based on the submitted personal data.
9. Indication of personal data is obligatory in order to execute the Agreement.

**IV. The Contractor undertakes to familiarize with the contents of the relevant information obligation all the persons participating in the Agreement realization whose personal data have been submitted to the Ordering Party.**

**§ 16**

The Parties to the Agreement undertake to ensure the processing of personal data in line with the generally binding provisions, in particular, the provisions of the Regulation of the European Parliament and Council (EU) 2016/679 from 27 April 2016 on protection of natural persons in relation to the processing of personal data and on the free flow of such data and repealing the Directive 95/46/EC (general data protection regulation GDPR).

**§ 17**

1.The Contractor declares that:

1) there are no grounds to consider him as an entity that cannot participate in the realization of public tenders - specified in the binding provisions of law that regulate the principles of counteracting aggression against Ukraine, in particular, in Art. 7 sec. 1 of the Act from 13 April 2022 on detailed solutions in the scope of counteracting the support for the aggression in Ukraine and targeted at protecting the national safety as well as ensuring and guaranteeing that these grounds are not in place in the whole period of realizing the subject of agreement, undertaking to immediately notify the Ordering Party in writing of each change of these circumstances,

2) he is not: A) a Russian national or a natural or legal person, entity or organ with its seat in Russia, b) legal person, entity or organ for whom the property rights, either directly or indirectly, in more than 50% belong to the entity specified in letter a), c) natural or legal person, entity or organ acting on behalf or under the direction of the entity specified in letter a) or b) as well as ensures and guarantees that these premises do not occur in the whole period of realization of the subject of the agreement, undertaking to immediately notify the Ordering Party in writing of any change to these circumstances,

3) shall not entrust the conduct of any part of the subject of the agreement to entities (subcontractors, suppliers, service providers) who are entities specified in point 2) above,

4) undertakes to submit before the Ordering Party (upon each demand) statement of the Contractor or statement of his subcontractors, suppliers, service providers in case of circumstances specified in pints 1-3), under the pain of removal from realization binding the agreement parties subject to maintaining by the Ordering Party all entitlements stemming from the hereby Agreement.

2.Through realizing the public task covered by the hereby Agreement, the Party realizing the Agreement undertakes to ensure architectural accessibility, digital accessibility and information-communication accessibility to persons with special needs at least in the scope specified by the minimum requirements specified in Art. 6 of the Act of 19 July 2019 on ensuring accessibility to persons with special needs in the scope in which it is possible and justified due to the subject of the contract.

**§ 18**

* + 1. In all matters unresolved by the hereby Agreement the provisions of the Act of 23 April 1964 - Civil Code and the Act of 11 September 2019 - Public Procurement Law shall apply.
		2. In case of claims related to the hereby Agreement, all disputes shall be resolved by general courts with jurisdiction over the seat of the Ordering Party in line with the binding Polish law.

**§ 19**

The Agreement (along with the handover protocol) was elaborated in two identical copies, one for the Contractor and one for the Ordering Party.

**Contractor: ...................................**

**Ordering Party:**

**MUB Chancellor mgr Konrad Raczkowski**............................

**Appendices:**

* + 1. Offer of the Contractor,
		2. Specification of order conditions,
		3. Description of order subject,
		4. Evaluation of Guarantee Terms
		5. Guarantee terms, warranty terms and guarantee service terms
		6. Procedure of delivery and collection of devices
		7. Construction project documentation
		8. Agreement on entrustment of personal data processing

MEDICAL UNIVERSITY Białystok, on ………………………

 Białystok

 ul. Jana Kilińskiego 1

 15- 089 Białystok,

**HANDOVER PROTOCOL**

Name of the subject of order: **The set comprises two metabolic chambers with equipment and accessories.**

Agreement Number: **AZP.25.1.8.2025**

Contractor:

Place of delivery: **Clinical Research Support Centre in Bialystok**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Name of device:**  | **Number of items/sets** | **Serial number**  | **Comments** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

1. The Parties note that the subject of the order:
* **was delivered and installed on:** ………………………………
* **operates correctly.**
* **no quality and quantity shortages were detected.**
1. The working instructions were provided (along with the implementation in the scope of use).
2. **Period of guarantee:** ……………………………….
3. **Along with the delivery the Contractor provided:**
4. Instructions for device servicing
5. Guarantee Card
6. Technical card/passport

**Contractor of the order subject:** ...................................................................

 Signature of the Contractor (or Contractor's representative)

**Ordering Party:**  .........................................................

 Signature of the User (or of authorized person)

 ............................................................

 Signature of the person from the Procurement Department of the MUB

1. *Delete as appropriate* [↑](#footnote-ref-1)